

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 3, 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Signature
Confirmation # 91 3408 2133 3931 7032 5526

Mr. Gary Hartwell, Director of Public Works
City of Frisco
11300 Research Road
Frisco, Texas 75034

Re: Notice of Enforcement Action
City of Frisco; RN101430437
Docket No. 2009-0166-WQ-E; Enforcement Case No. 37115
FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Hartwell:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against the City of Frisco for violations of the Texas Water Code and/or Commission Rules. These violations were discovered during an investigation conducted on December 30, 2008, and documented in a letter dated January 28, 2009, from the TCEQ Dallas/Fort Worth Regional Office.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of Three Thousand Seven Hundred Fifty Dollars (\$3,750) and identifies the violations that we are addressing.

If you have any questions regarding this matter, we are available to discuss them in a conference in Fort Worth or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for the Commission's agenda. We believe that handling this matter expeditiously could save the City of Frisco and the TCEQ a significant amount of time, as well as the expense associated with litigation.

A copy of the order is provided for your files. Also enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing City of Frisco, Docket No. 2009-0166-WQ-E) to:

Financial Administration Division, Revenues
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

REPLY TO: REGION 4-DALLAS/FORT WORTH • 2309 GRAVEL DR. • FORT WORTH, TEXAS 76118-6951 • 817-588-5800 • FAX 817-588-5700

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • Internet address: www.tceq.state.tx.us

printed on recycled paper using soy-based ink

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Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. Please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount. The Commission will make the final decision on the staff recommendation.

You may be able to perform or pay for a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing a SEP, you must agree to the penalty amount and submit a SEP proposal within 30 days of receipt of this proposed order. For additional information about SEPs, please go to the TCEQ's web site link at <http://www.tceq.state.tx.us/legal/sep/index.html> or contact the Enforcement Coordinator listed below.**

Please note that any agreements we reach are subject to final approval by the Commission.

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer will no longer be available. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70 or any other TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled *Obtaining TCEQ Rules*. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission.

For any questions or comments about this matter or to arrange a meeting, please contact Mr. Jorge Ibarra, P.E., of my staff at (817) 588-5890.

Sincerely,



for Susan Johnson, Manager
Enforcement Division
Texas Commission on Environmental Quality

SJ/jai

Enclosures: Proposed Agreed Order, File Copy, Return Envelope, *Obtaining TCEQ Rules*, Penalty Calculation Worksheet, Site Compliance History

cc: Mr. Sid Slocum, Manager, Water Section, Dallas/Fort Worth Regional Office, TCEQ